

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
PITTSBURGH DIVISION**

<p>JOYCE'S JEWELRY, INC., Plaintiff, v. PNC BANK, NATIONAL ASSOCIATION, Defendant.</p>	<p>CIVIL ACTION Case No. 2:22-cv-1403</p>
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NOTICE OF REMOVAL

Defendant PNC Bank, National Association (“PNC Bank”) hereby files this Notice of Removal from the Court of Common Pleas for Fayette County, Pennsylvania, to the United States District Court for the Western District of Pennsylvania. This Court has jurisdiction under 28 U.S.C. §§ 1332(a)(1).

In further support of this Notice of Removal, PNC Bank states as follows:

BACKGROUND AND PROCEDURAL HISTORY

1. On September 16, 2022, Plaintiff Joyce's Jewelry, Inc. (“Joyce's” or Plaintiff) filed this civil action in the Court of Common Pleas for Fayette County, Pennsylvania, Case No. 2022-01797. A true and correct copy of the Docket Sheet and Complaint are attached hereto as Exhibit A. Exhibit A constitutes all of the process, pleadings, and orders served in this case and is attached hereto pursuant to 28 U.S.C. § 1446(a).

2. Plaintiff asserts claims for violations of the Pennsylvania Uniform Commercial Code, 13 Pa. Cons. Stat. § 4A101, *et seq.*, as well as common-law claims for

negligence, breach of fiduciary duty, unjust enrichment, conversion, and respondeat superior (Compl. ¶¶ 106–46.)

3. Plaintiff seeks compensatory, statutory, and punitive damages as well as interest, costs, attorneys' fees, and "such other and further relief as the Court deems just and appropriate." (*Id.* at p. 25).

PARTIES

4. Plaintiff is a Pennsylvania corporation with a principal place of business in Pennsylvania. Plaintiff is therefore a citizen of Pennsylvania. (Compl. ¶ 6.)

5. PNC Bank is a national banking association. As designated in its Articles of Association, PNC Bank's main office is in Wilmington, Delaware. *See Exhibit B, Declaration of Kristin D. Biehl*, at Exhibit 1. As such, PNC Bank is a citizen of Delaware for purposes of diversity jurisdiction. *See* 28 U.S.C. § 1338; *Wachovia Bank, N.A. v. Schmidt*, 546 U.S. 303, 318 (2006) (holding that a national banking association is considered a citizen of "the State designated in its articles of association as its main office"); *Spano v. JP Morgan Chase Bank, NA*, 521 F. App'x 66, 69 n.2 (3d Cir. 2013) ("Chase is citizen of Ohio because it is a 'national bank' and its main office, as set forth in its articles of incorporation, is located in that state."); *Weber v. PNC Invs. LLC*, No. 2:19-cv-00704, 2020 U.S. Dist. LEXIS 18723, at *16 (W.D. Pa. Feb. 5, 2020) ("The articles of association for PNC Bank show that its main office is located in Wilmington, Delaware—making it a Delaware citizen for diversity purposes.").

TIMELINESS OF REMOVAL

6. Plaintiff filed its Complaint on September 16, 2022.

7. Plaintiff served the Complaint on PNC Bank on September 16, 2022. PNC Bank is filing this Notice of Removal within 30 days of service.

8. Thus, this notice is timely pursuant to 28 U.S.C. § 1446(b).

BASIS FOR REMOVAL JURISDICTION

9. Removal is appropriate under 28 U.S.C. § 1332(a)(1) because there is (i) complete diversity between Plaintiff and PNC Bank, and (ii) the amount in controversy, based on the relief Plaintiff seeks, exceeds \$75,000.

10. An action may be removed pursuant to 28 U.S.C. § 1332(a)(1) if the action is between “citizens of different States” and the amount in controversy exceeds \$75,000, exclusive of interest and costs. 28 U.S.C. §§ 1332(a)(1); 1441(a).

11. Here, the requirement of complete diversity of citizenship is satisfied because Plaintiff is a citizen of Pennsylvania (Complaint ¶ 6), while PNC Bank is a citizen of Delaware, (Exhibit B). *See* 28 U.S.C. § 1348; *Wachovia Bank, N.A. v. Schmidt*, 546 U.S. 303, 318 (2006) (holding that a national banking association is considered a citizen of “the State designated in its articles of association as its main office”); *Spano v. JP Morgan Chase Bank, NA*, 521 F. App’x 66, 69 n.2 (3d Cir. 2013) (“Chase is citizen of Ohio because it is a ‘national bank’ and its main office, as set forth in its articles of incorporation, is located in that state.”). Other courts in this District have already recognized as much specifically as to PNC Bank. *See Weber v. PNC Invs. LLC*, No. 2:19-cv-00704, 2020 U.S. Dist. LEXIS 18723, at *16 (W.D. Pa. Feb. 5, 2020) (“The articles of association for PNC Bank show that its main office is located in Wilmington, Delaware—making it a Delaware citizen for diversity purposes.”).

12. The amount in controversy exceeds \$75,000. (*See* Compl. ¶ 103 (alleging \$1.1 million in losses); *id.* ¶ 130 (alleging \$200,000 in unjust enrichment); *id.* at ¶ 136 (alleging \$200,000 in converted funds).)

13. Accordingly, the diversity and amount-in-controversy requirements are met, and removal is proper under 28 U.S.C. § 1332(a)(1).

REMOVAL TO THE WESTERN DISTRICT OF PENNSYLVANIA IS PROPER

14. Removal to the Western District of Pennsylvania, Pittsburgh Division, is proper because it is “the district and division within which [this] action is pending.” 28 U.S.C. § 1446(a).

NOTICE TO STATE COURT AND PLAINTIFF

15. Counsel for PNC Bank certifies, pursuant to 28 U.S.C. § 1446(d), that copies of this Notice of Removal will be filed with the Court of Common Pleas for Fayette County, Pennsylvania, and served upon counsel for Plaintiff promptly. A true and correct copy of PNC Bank’s Notice of Filing Notice of Removal is attached hereto as Exhibit C.

WHEREFORE, the case now pending in the Court of Common Pleas for Fayette County, Pennsylvania, No. 1797-2022, is hereby removed to the United States District Court for the Western District of Pennsylvania pursuant to 28 U.S.C. § 1441.

Dated: October 6, 2022

Respectfully submitted,

/s/ Jenny N. Perkins

Jenny N. Perkins, Esq.

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CERTIFICATE OF SERVICE

I hereby certify that, on October 6, 2022, I caused a true and correct copy of the foregoing to be served by email and by overnight Federal Express priority mail upon the following:

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Dated: October 6, 2022

/s/ Jenny N. Perkins
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